

1 because that data is not tracked on race and ethnicity
2 right now. The only thing that is tracked is we
3 can -- based on our new TEAM system, we can
4 cross-reference Hispanic surnames, but that's
5 inconclusive, so --

6 SEN. VAN de PUTTE: Van de Putte.

7 MR. SHORTER: Exactly. So the answer is
8 right now there's not a mechanism to track race or
9 ethnicity.

10 SEN. VAN de PUTTE: So how would we be
11 able -- if we don't know -- if we're not capturing the
12 data, the data is not available as a base point of how
13 many registered voters we have who are
14 African-American or Latino or Spanish speaking, how
15 can we benchmark and prove up to the Justice
16 Department and support litigation that there will not
17 be a negative effect since we have no data?

18 MR. SHORTER: I would assume that our
19 staff has been using some other means to do that. I
20 don't know what that is, but I will find out for you.

21 SEN. VAN de PUTTE: Okay. So what I
22 have so far is that you will get back to us on
23 certificate versus papers --

24 MR. SHORTER: Yes, ma'am.

25 SEN. VAN de PUTTE: -- for naturalized

1 citizens --

2 MR. SHORTER: Yes, ma'am.

3 SEN. VAN de PUTTE: -- since the other
4 states that have passed this so far do not have nearly
5 the degree of those naturalized citizens as we do; and
6 that you will also check on the incongruencies of
7 address for both our military members and college
8 students.

9 MR. SHORTER: Yes, ma'am.

10 SEN. VAN de PUTTE: And you will also
11 get back with us the data, if it exists, of how many
12 voters we have that are indeed African-American and
13 Hispanic so that we can have a benchmark. We need
14 that data to be able to prove that. So those are the
15 things that you are going to be helping us with.

16 MR. SHORTER: Yes, ma'am, I will; we
17 will. John and I will be notifying staff so they can
18 get on it and hopefully give you an answer before the
19 end of the day.

20 SEN. VAN de PUTTE: Well, thank you, but
21 I know you haven't gone to sleep yet, so I appreciate
22 the hard work of your staff. And again, my regards to
23 my dear friend, our Secretary of State.

24 MR. SHORTER: Thank you.

25 SEN. VAN de PUTTE: Thank you.

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1 SEN. WENTWORTH: The Chair recognizes
2 Sent. Whitmire. Sen. Whitmire? John? The Chair
3 recognizes Sen. Whitmire.

4 SEN. WHITMIRE: No, I'll pass
5 (inaudible) I've got a quick question, quick, quick,
6 quick. You were responding to Sen. Fraser's
7 hypotheticals, and he was talking about if he ran in
8 and voted and then he went back out and got his
9 brother's card and voted again that nothing could be
10 done. Is it not true, sir, that the election officer
11 is in total control of his precinct? I've seen folks
12 be arrested for handing out cards too close, poll
13 watchers for harassing voters. Isn't it true that if
14 you try to go in and vote twice in the same timeframe
15 that you could be arrested for voter fraud at that
16 moment and maybe even have a mental warrant served on
17 you if you tried to do it like he described it? So
18 aren't we -- aren't we really being a little
19 ridiculous at five in the morning with some of our
20 hypotheticals?

21 MR. SHORTER: Sir, I'm not --

22 SEN. WHITMIRE: You were being awful
23 nice. I realize you're in a difficult position, but I
24 don't -- is it realistic that someone, the same person
25 could vote twice within a 30-minute timeframe?

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1 MR. SHORTER: It's possible, sir.

2 Whether --

3 SEN. WHITMIRE: It's possible to get
4 arrested for doing it, too, is it not?

5 MR. SHORTER: That is correct.

6 SEN. WHITMIRE: Okay. That's all I
7 wanted to clear up because -- and I could go through
8 his other hypotheticals.

9 What really concerns us and I guess it's
10 been somewhat addressed is the cost and the commitment
11 to educate the public.

12 MR. SHORTER: Yes, sir.

13 SEN. WHITMIRE: Have you been in any
14 planning sessions where you're going to have the
15 resources and you have the spots, as Sen. Williams
16 pointed out? I mean, are we really serious and ready
17 to go with that, or is that a hypothetical, too?

18 MR. SHORTER: No, sir. Our office is
19 actively planning our voter education program for the
20 next cycle now.

21 SEN. WHITMIRE: Well, that's great, but
22 what's the provisions for doing a voter ID plan?

23 MR. SHORTER: What we're doing now is
24 looking at -- because this is one of our new bills
25 that we're working on and that has been brought to us

1 for us to look at, we're looking at what costs would
2 be associated with doing those things within the bill
3 and fitting those into the funds that we have
4 available. Based on the fact that it is not a
5 Presidential Election year, we feel that the funds
6 that we have available now we could -- we could
7 theoretically -- we could undertake this.

8 There are -- in terms of training for --
9 training for elections and new initiatives, that's
10 already -- we're already directed to do that. So our
11 agency as a whole is -- there's some things you
12 anticipate and you know and you plan for, and we're
13 already there, sir. Because what we will have to do
14 is we'll have to prioritize in terms of maybe some new
15 initiatives versus -- that are not legislatively
16 mandated versus those that you-all mandate to us.

17 SEN. WHITMIRE: Okay. I yield at this
18 time.

19 SEN. DUNCAN: Sen. Watson, you're
20 recognized.

21 SEN. WATSON: Thank you, Mr. Chair, and
22 thank you for being here. I know it's been very long.

23 And, Members, one bit of information.
24 Yesterday, not today, but yesterday, although it feels
25 like one day, was his ten-year old son's birthday, and

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1 he stayed with us all during that period of time,
2 snuck away I think briefly to wish him a happy
3 birthday, but we really appreciate your being with
4 us --

5 MR. SHORTER: Thank you.

6 SEN. WATSON: -- and hope you will tell
7 him we said happy birthday.

8 Just a couple of quick questions. One
9 is you shared with me some numbers on a piece of
10 paper, and I don't know what the paper was created
11 for, but it has at the top of the page the number 5,
12 and then it says "Number of voters who have registered
13 since 2006 without a driver's license number." What
14 was this document created for?

15 MR. SHORTER: Sir, this document was
16 created -- Senator, this document was created in a
17 response to questions that were asked of our staff
18 last week by House Elections.

19 SEN. WATSON: Okay. And in that, what
20 you did is you created two sets of numbers: One was a
21 set of numbers of voters who registered since
22 January 1, 2006. And explain for me again why that's
23 an important number date.

24 MR. SHORTER: When the Help America Vote
25 Act was passed in 2002, there was a requirement put in

1 the provisions of the Help America Vote Act for
2 uniformity standard purposes for the driver's license
3 to be a required form of ID in terms of registration.
4 Prior to January 1, 2006, it was optional as to
5 whether or not you included your driver's license on
6 your voter registration application.

7 The voter registration application
8 now -- the first thing it asks for in Section 8 is
9 either your driver's license and your Texas -- or your
10 Texas ID, and that's a requirement if you have one.
11 Prior to January 1, 2006 it was optional.

12 SEN. WATSON: Okay. So the numbers you
13 came up with you demonstrated -- and I think we had
14 had some conversation -- Sen. Fraser and I had had
15 some conversation earlier in the day. And when you
16 look at those who have registered since January 1,
17 2006, the key date that you mentioned, and you look at
18 those numbers, about 91.9 percent have registered
19 using a driver's license. Is that correct?

20 MR. SHORTER: Using a driver's license
21 or social security number.

22 SEN. WATSON: Well, here is the way --
23 let's make sure we're clear on this. The first
24 category of numbers who registered with a driver's
25 license, and I guess that's with a driver's license

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1 exclusively. Is that correct?

2 MR. SHORTER: That is correct, sir.

3 SEN. WATSON: And then the second
4 category is those who registered with a social
5 security number, and that would be exclusively with a
6 social security number?

7 MR. SHORTER: That is correct.

8 SEN. WATSON: And then the third
9 category would be those who did something you don't
10 really have to do, but they did it, and they filled in
11 both driver's license and social security?

12 MR. SHORTER: That is correct.

13 SEN. WATSON: So if I wanted to identify
14 the number of people who registered with a Texas
15 driver's license and get a total number, I would add
16 Category 1 and Category 3?

17 MR. SHORTER: That is correct, Senator.

18 SEN. WATSON: Now, something else you
19 did in response to the question from House Elections
20 was you said "In addition agency staff queried the
21 entire statewide file which reflects the following
22 breakdowns concerning identification numbers for all
23 voters." So that would be folks with voter
24 registration certificates, voter registration
25 certificates including those from before January 1,

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1 2007?

2 MR. SHORTER: That is correct. That's
3 everyone in our vote registration system.

4 SEN. WATSON: And those folks weren't
5 required, as you've said, to utilize a driver's
6 license or social security number?

7 MR. SHORTER: Yes, sir.

8 SEN. WATSON: And that -- when we look
9 at those numbers, and you have the same categories,
10 you have number of voters with a driver's license,
11 again exclusively, number of voters with a social
12 security number exclusively, number of voters with
13 both and the number of voters with neither. When we
14 put those numbers together, we know that about
15 25 percent of the population that have voter
16 registration certificates don't indicate that they
17 have -- that they didn't use a Texas driver's license
18 to get that. Is that right?

19 MR. SHORTER: Yes, sir.

20 SEN. WATSON: Now, you also would have
21 no way of knowing in either of those that have been
22 registered since January 1, 2006 or those that have
23 been registered since well before that time who might
24 have lost their driver's license during that period of
25 time?

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1 MR. SHORTER: No, sir.

2 SEN. WATSON: And the Secretary of
3 State's Office wouldn't have any way of knowing whose
4 driver's license might have been expired for over two
5 years now?

6 MR. SHORTER: If they already have their
7 voter registration card.

8 SEN. WATSON: Right. So, for example,
9 if I registered to vote, let's say ten years ago, just
10 to use a round number, I wouldn't have been required
11 to use a driver's license to register. Is that
12 correct?

13 MR. SHORTER: Correct.

14 SEN. WATSON: And if I continue to vote
15 on a regular basis, as I understand it, I am
16 re-registered each time I register to vote or I go
17 vote. Right?

18 MR. SHORTER: Yes, sir.

19 SEN. WATSON: So if I lost my driver's
20 license nine years ago but I continue to register, I
21 might be a registered voter in the State of Texas
22 maybe even use my driver's license when I registered,
23 but I no longer would have a driver's license?

24 MR. SHORTER: That's a possibility, sir.

25 SEN. WATSON: No one has asked the

1 Secretary of State's Office to do any sort of studies
2 or provide any information demonstrating whether there
3 are certain populations or demographic groups in Texas
4 that are less likely to have a driver's license and
5 use their driver's license when they apply for a voter
6 registration certificate, have they?

7 MR. SHORTER: To my knowledge, no, sir.

8 SEN. WATSON: And the truth is you
9 wouldn't have any way of putting that data together,
10 would you?

11 MR. SHORTER: Not as an agency alone.

12 SEN. WATSON: Well, if I told you that
13 the Texas Department -- you'd have to go to DPS?

14 MR. SHORTER: Probably. That's one of
15 the agencies that pops into my head.

16 SEN. WATSON: And I think we talked a
17 little bit earlier today -- I think I showed you an
18 answer that DPS has given. You wouldn't be surprised
19 to know that DPS is not aware of any studies regarding
20 a way to demonstrate whether certain populations or
21 demographic groups are less likely to secure a
22 driver's license than others, you weren't surprised
23 when I shared that with you earlier today, were you?

24 MR. SHORTER: No, sir. I recall.

25 SEN. WATSON: Yeah. Thank you very

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1 much, and I really do appreciate it along with
2 everybody that you've given us so much time.

3 SEN. DUNCAN: Thank you, Sen. Watson.
4 The Chair recognizes Sen. Patrick.

5 SEN. PATRICK: Thank you, Mr. Chairman.
6 Just a quick question. There was an earlier comment
7 made that it was very unlikely that someone would vote
8 twice in 30 minutes. But the truth is if someone did
9 fraudulently get, let's just say ten voter
10 registrations, and they didn't send in a name like
11 Mickey Mouse but sent in a very normal name that
12 wouldn't catch anyone's attention. And if I had ten
13 cards or that person had ten cards, they could go to
14 one precinct and vote, and they could go down the
15 street to another precinct and vote --

16 MR. SHORTER: (Nodded)

17 SEN. PATRICK: -- and another precinct
18 and vote because they'd go in over a different
19 registration card each time.

20 MR. SHORTER: Okay.

21 SEN. PATRICK: So a person could, if
22 they wanted to, or they could register in the same
23 precinct and go back three days later if they started
24 during early voting. Right?

25 MR. SHORTER: Repeat your -- repeat the

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1 last part of your question.

2 SEN. PATRICK: The last part of the
3 question, if you had registrations in the same
4 precinct, you could go back over a period of multiple
5 days if you were willing to take that risk and vote.
6 So a person could vote more than once. I mean, it's
7 not an extreme thought that someone could register
8 under several different names.

9 MR. SHORTER: It's a hype -- it is one
10 of those hypotheticals that could happen.

11 SEN. PATRICK: All right. Thank you.

12 SEN. DUNCAN: Thank you, Sen. Patrick.
13 The Chair recognizes Senator -- do you want to go
14 ahead, Sen. Watson, and enter -- you've got a document
15 you want to enter?

16 SEN. WATSON: Yeah, let me just ask a
17 quick question. I should have done that. Do you have
18 a clean copy of the sheet that has Question No. 5, the
19 answer from the House Elections Committee that we
20 could make an exhibit for our record?

21 MR. SHORTER: Yes, sir.

22 SEN. WATSON: Okay. We'll wait until
23 you're done, but if you'll just remind me of that,
24 we'll attach that after your testimony.

25 MR. SHORTER: Yes, sir.

1 SEN. WATSON: Thank you very much.
2 Thank you, Mr. Chair, for letting me do that out of
3 order.

4 SEN. DUNCAN: The Chair recognizes
5 Sen. Davis.

6 SEN. DAVIS: Good morning.

7 MR. SHORTER: Good morning.

8 SEN. DAVIS: I join my colleagues in
9 saying thank you to you for staying so long with us.
10 And I have a very quick question for you. I apologize
11 if you've already asked -- been asked this question
12 and answered it, but what is the amount of money that
13 the Secretary of State has set aside in anticipation
14 of the possibility of having to educate our voter
15 community about the requirements -- the new
16 requirements that would be placed upon them under the
17 Senate Bill that we're looking at today?

18 MR. SHORTER: We haven't determined the
19 actual amount, Senator. We are looking at all of our
20 opportunities and looking at the available resources
21 we already existed -- already have. We know right
22 now -- if there were no other funding, we know that we
23 have access to \$2 million through our current HAVA
24 Funds for voter education.

25 What we need to do now is -- and we feel

1 comfortable based on the projections -- being that it
2 is not a Presidential Election year, we feel
3 comfortable that we can do what needs to be done
4 within that window. There are also some opportunities
5 potentially for us to maybe draw down some additional
6 HAVA Funds. We're not -- we're investigating that as
7 well.

8 So what we're looking at is if this bill
9 is passed as it is, staff is looking at, based on
10 access to HAVA dollars, what would it cost to do this,
11 to implement this, to do the training, to do the voter
12 education statewide. We don't have those figures yet.
13 However, based on past precedent within the agency and
14 with the access to those federal funds, we feel like
15 we can do it with those funds and be consistent with
16 how we've done it every year.

17 SEN. DAVIS: Let's say we weren't
18 examining the issue that's before us right now and we
19 weren't going to create any kind of new voter ID
20 requirement in the State of Texas. What would the
21 Secretary of State's Office have used that \$2 million
22 amount for? What kind of educational programs do you
23 typically engage in?

24 MR. SHORTER: Well, we don't -- we don't
25 anticipate this particular bill consuming all of

1 that -- those funds. For instance, our entire effort
2 last year would focused on some key things. And if
3 you don't mind, I'd like to kind of just --

4 SEN. DAVIS: I'd appreciate that.

5 MR. SHORTER: -- share with you some of
6 the ideas from talking with our staff on voter
7 education. In 2008 we have what's called a Vote Texas
8 Program. That's our voter education program. That
9 focuses on newspaper, radio, TV, PSAs, interactive
10 Web. It allows us an opportunity to be creative to
11 reach the people where they are, and we do several
12 things: We focus on the basics of education. Number
13 one, how to vote, what needs to happen to vote, where
14 to vote, where are you going to vote, what do you
15 bring -- what do you need to bring with you to vote.
16 If this were -- if this bill were to pass, what would
17 you need to bring to vote would be the -- it would
18 change.

19 We're at a point in our development
20 where we can now make those changes. Theoretically
21 what happens in the Secretary of State's Office is we
22 get through with the session, we look at all of the
23 changes and we use the summer months -- we use the
24 spring to answer all your questions and start
25 planning. We have certainty after the session as to

1 what you as a legislative body have given us, the
2 mandates and directions you have given us. We use
3 that time then to start implementing, plugging in.

4 One of the other things we do is what is
5 the process and -- what is the actual process and then
6 what are the rights of the voters. So based on that,
7 it seems very plausible that we would be able to take
8 the directives of this bill or any bill that you as a
9 legislature provide and fit it into that formula and
10 meet HAVA requirements for what we are mandated to do
11 in terms of educating our voters.

12 SEN. DAVIS: And in the past when you've
13 implemented a program like that, and I gather from
14 what you're saying you've engaged in exactly this kind
15 of --

16 MR. SHORTER: Yes, ma'am.

17 SEN. DAVIS: -- education effort before,
18 what would the cost be in a typical election cycle for
19 you to administer that program?

20 MR. SHORTER: Last year we -- last
21 year -- the last election cycle was \$3 million.

22 SEN. DAVIS: It was \$3 million. And
23 that's \$3 million educating a voter group that has for
24 many years been operating under the same rules
25 repeatedly. Correct?

1 MR. SHORTER: Yes, if there were -- I
2 came to the agency during the middle of that process.
3 If there were legislative changes during the last
4 legislative cycle, those changes were intertwined into
5 the voter education process. I'm not -- I'll have to
6 go back and ask what changes were made during the last
7 legislative session that would have affected how we
8 rolled out this particular -- last year's initiative.

9 For instance, within all of that,
10 there's also the Project Vote where we start -- the
11 education process of educating voters starts also at
12 the age of educating our school-aged kids.
13 1.1 million people -- 1.1 million students in over 300
14 school districts last year participated in Project
15 Vote. So those were some extra things that we've
16 always done even with legislation like this we will
17 still be able to do because we have it down to a
18 science now on how to do it, and we've been able to
19 bring those costs down.

20 SEN. DAVIS: And now that you have it
21 down to a science and in the last election cycle given
22 that you have it down to a science, you've spent, you
23 said, about \$3 million on the program. Could you
24 anticipate a scenario where with a new voter ID
25 requirement, one that is, well, quite lengthy in terms

1 of the amount of paper that it this takes up on the
2 bill that's been proposed, could you anticipate given
3 the need to educate on so many new features of a voter
4 program that it might cost you more than \$3 million to
5 educate Texans on that program?

6 MR. SHORTER: Senator, based on past
7 precedent, I think it will be highly unlikely that the
8 expenses would increase that much because many of the
9 things that this bill is requiring us to do we're
10 already doing it on legislation that has existed for a
11 long time.

12 When we have a poll -- when we have the
13 poll worker training or the training for Election
14 Officials, it's very detailed information, and there
15 are little tweaks that the legislature makes, and
16 these are not 30-minute trainings. These are
17 generally two- to three-day trainings. So it's not
18 like if we -- if this bill were implemented the
19 training needs would be -- or the training modules
20 that will be developed would be any different than the
21 modules that we are already developing because the
22 ones we're developing now are pretty extensive.

23 SEN. DAVIS: And did the \$3 million
24 figure that you -- that you cited a moment ago on your
25 voter outreach program in the last election cycle, did

1 that include the costs of training poll workers on
2 whatever tweaks came in the last legislative session?

3 MR. SHORTER: It is my understanding
4 that it did, but, Senator, I don't mind verifying that
5 for you to make sure that it's all-inclusive.

6 SEN. DAVIS: I would appreciate that.
7 And if you could provide us with information in terms
8 of exactly what that poll training looked like, the
9 poll worker training looked like, I would appreciate
10 that.

11 MR. SHORTER: Senator, we're very
12 excited about our poll worker training because we have
13 two aspects: It can be done in person, but we also
14 have poll worker training now that can be done on
15 line. And one of the things we're really trying to
16 do -- and with the hope of encouraging more people to
17 volunteer or sign up to be poll workers.

18 SEN. DAVIS: Would you anticipate that a
19 bill suggesting the changes of this magnitude might be
20 a more complex training program -- that might require
21 a more complex training program than you've had to
22 engage in in the past where the legislature may have
23 tweaked, to use your word, the voter requirements?

24 MR. SHORTER: And maybe, Senator, using
25 the word "tweaked" was not probably the appropriate

1 word to use. I don't see anything at this point that
2 would cause me as the operations person within the
3 agency to be alarmed.

4 SEN. DAVIS: Okay. Thank you. I
5 appreciate it.

6 SEN. DUNCAN: All right. Thank you,
7 Sen. Davis. There are no other members in the queue
8 to ask questions. So, Mr. Shorter, you are excused.
9 Thank you for your testimony.

10 MR. SHORTER: Thank you, Mr. Chairman.

11 TESTIMONY BY DENNIS BOREL

12 SEN. DUNCAN: The Chair calls Dennis
13 Borel. Mr. Borel, do you have written testimony?

14 MR. BOREL: (Inaudible)

15 SEN. DUNCAN: Do you have pictures for
16 us? All right. We'll need to get those marked at the
17 right time.

18 MR. BOREL: Good morning. My name is
19 Dennis Borel with the Coalition of Texans with
20 Disabilities. Yes, I am from the Texas --

21 SEN. DUNCAN: Hang on just a minute.

22 MR. BOREL: Sure.

23 SEN. DUNCAN: We need to get your timer
24 started.

25 MR. BOREL: Okay.

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